

ORDER OF THE STATE PERSONNEL BOARD

DAN WELLS and BARRY RICE,

Complainants,

vs.

DEPARTMENT OF HIGHER EDUCATION, UNIVERSITY OF COLORADO AT
DENVER, AURARIA MEDIA CENTER, AURARIA LIBRARY and AURARIA
HIGHER EDUCATION CENTER,

Respondents.

The State Personnel Board (the "Board") met in public session on Tuesday, December 17, 2003. During this public session, the Board considered the record on appeal, including but not limited to:

1. Initial Decision of the Administrative Law Judge
2. Complainant Wells Opening Brief
3. Respondent AHEC's Opening Appeal Brief
4. Respondent's Brief in Response
5. Complainant Barry Rice's Response to Respondent AHEC's Opening Appeal Brief
6. AHEC's Response to Wells' Opening Brief
7. Complainant Wells Reply Brief to Respondent AHEC's Response Brief
8. Respondent AHEC's Reply to Complainant Rice's Brief.

The Board voted to adopt the findings of fact and Conclusions of Law 1, 2, and 4, in the Initial Decision of the Administrative Law Judge, but to reverse the Administrative Law Judge on Conclusion of Law 3 ("Respondent Auraria Higher Education Center's actions, with regards to Complainant Rice, were arbitrary, capricious, or contrary to rule or law").

This order represents the affirmative vote of the following Board members: Ms. Garcia, Mr. Zakhem, and Ms. Lottner. Ms. Salkind and Ms. Siderius abstained from voting.

Dated this _____ day of
December, 2003.

Joyce Lottner
Board Chair
State Personnel Board
1120 Lincoln Street, Suite 1420
Denver, Colorado 80203

NOTICE OF APPEAL

Each party has the following rights:

1. To abide by this decision of the State Personnel Board; or
2. To appeal this decision to the Colorado Court of Appeals within 45 days pursuant to Section 24-4-106(11), C.R.S. (2003), as provided in Section 24-50-125.4(3), C.R.S. (2003).

In the event the decision is appealed, the Board requests that a copy of the Notice of Appeal filed with the Court of Appeals also be filed with the State Personnel Board at: 1120 Lincoln Street, Suite 1420, Denver, CO 80203. Such will aide in the timely preparation of the record.

CERTIFICATE OF MAILING

This is to certify that on the _____ day of December, 2003, I placed true copies of the foregoing **ORDER OF THE STATE PERSONNEL BOARD**, in the United States mail, postage prepaid, addressed as follows:

Mark A. Schwane
Colorado Federation of Public Employees
1580 Logan Street, Suite 310
Denver, Colorado 80203

Nora V. Kelly
Nora V. Kelly, P.C.
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Rosemary Augustine
Associate University Counsel
The University of Colorado at Denver
1380 Lawrence Street, Suite 525
Denver, Colorado 80204

and in the interagency mail, to:

Luis A. Corchado
Assistant Attorney General
Employment Law Section
1525 Sherman Street, 5th Floor
Denver, Colorado 80203
